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BRIAN LIVESAY

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

BRIAN LIVESAY,	)	Case No.: <u>'15CV2308 DMS RBB</u>
	)	
Plaintiff,	)	<b>COMPLAINT AND DEMAND FOR</b>
	)	<b>JURY TRIAL</b>
v.	)	<b>(Unlawful Debt Collection Practices)</b>
	)	
BBVA COMPASS BANCSHARES, INC.	)	
	)	
Defendant.	)	

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BRIAN LIVESAY (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against BBVA COMPASS BANCSHARES, INC. (Defendant):

**INTRODUCTION**

1. Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).

### **JURISDICTION AND VENUE**

2. Jurisdiction of this Court over Counts I of Plaintiff's Complaint arises pursuant to 28 U.S.C. § 1331, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained herein.
3. Defendant conducts business in the State of California thereby establishing personal jurisdiction.
4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

### **PARTIES**

5. Plaintiff is a natural person residing in San Diego, San Diego County, California.
6. Defendant is a business entity with a principal place of business in Birmingham, Alabama.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

### **FACTUAL ALLEGATIONS**

8. In or around 2014, Defendant began constantly and continuously placing collection calls to Plaintiff seeking and demanding payment for an alleged debt.
9. Plaintiff's alleged debt arose through a consumer credit transaction.
10. Defendant places collection calls from telephone numbers, including, but not limited to, 800-239-2273.
11. Defendant places collection calls to Plaintiff's cellular telephones at phone number 858-752-75XX.
12. Based upon the timing and frequency of Defendant's calls and per its prior business practices, each of Defendant's calls were placed using an automatic telephone dialing system.
13. On or around January 14, 2015 at approximately 10:19 a.m., Plaintiff spoke to Defendant's representative, "Claudia," and requested that Defendant cease calling his cellular

1 telephone.

2 14. On or around May 14, 2015 at approximately 10:58 a.m., Plaintiff spoke to Defendant's  
3 representative, "Joyce," and requested that Defendant cease calling his cellular telephone.

4 15. Plaintiff revoked any consent, express, implied or otherwise, to receive automated  
5 collection calls from Defendant in the course of the telephone conversations on or around  
6 January 14, 2015 and May 14, 2015.

7 16. Despite Plaintiff's request to cease, Defendant continued to place multiple collection calls  
8 to Plaintiff on a daily basis.

9 17. Defendant placed at least one hundred and forty-two (142) collection calls to Plaintiff over  
10 an approximate five-month period between January, 2015 and June, 2015.

11 **COUNT I**

12 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

13 18. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,  
14 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation  
15 pursuant to 47 U.S.C. § 227(b)(3)(B).

16 19. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or  
17 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory  
18 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C.  
19 § 227(b)(3)(C).

20 Wherefore, Plaintiff, BRIAN LIVESAY, respectfully requests judgment be entered  
21 against Defendant, BBVA COMPASS BANCSHARES, INC. for the following:

22 20. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant  
23 to 47 U.S.C. § (b)(3)(B);

24 21. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the  
25 TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

1 22. All court costs, witness fees and other fees incurred; and

2 23. Any other relief that this Honorable Court deems appropriate.

3  
4  
5 DATED: October 14, 2015

RESPECTFULLY SUBMITTED,

6 KROHN & MOSS, LTD.

7  
8 By: /s/Ryan Lee  
9 Ryan Lee  
Attorney for Plaintiff

10  
11 **DEMAND FOR JURY TRIAL**

12 PLEASE TAKE NOTICE that Plaintiff, BRIAN LIVESAY, demands a jury trial in this  
13 case.